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March 4, 2020

VIA ECF

Hon. Jesse M. Furman
United States District Judge
United States District Court for the Southern District of New York
40 Foley Square, Courtroom 1105
New York, NY 10007

Re: Thorne v. CVS Health Corporation, Civil Action No.: 1:19-cv-09866-JMF

Dear Judge Furman:

This firm represents Defendant CVS Health Corporation (“Defendant”) in the above-referenced action. We have conferred with Plaintiff’s counsel and write, with Plaintiff’s concurrence, to jointly request a stay of this action until August 3, 2020.

By way of background, Defendant filed a motion to dismiss the complaint on February 27, 2020. On February 28, 2020, the Court entered a briefing schedule for Defendant’s pending motion to dismiss. (ECF No. 21.)

The parties respectfully request that this action be stayed to allow for the resolution of motions to dismiss in similar matters arising out of gift cards that do not include Braille, which are currently pending before the Court and other judges in this District and the Eastern District of New York. The stay would allow the parties to have the benefit of the Court’s analysis of the issues in other matters, which will inform their assessment of the pending case. It will also conserve resources of both the parties and the Court. Similar stays were recently granted by on the same grounds by Judge Woods in *Calcano v. Domino’s Pizza, Inc.*, Case No. 1:19-cv-09823-GHW (S.D.N.Y.) (ECF No. 24) and *Delacruz v. Jamba Juice*, Case No. 1:19-cv-10321-GHW (S.D.N.Y.) (ECF No. 20) and by Judge Abrams in *Delacruz v. Five Below, Inc.*, Case No. 1:19-cv-10294-RA (S.D.N.Y.) (ECF No. 16). These orders are enclosed for the Court’s convenience.

Alternatively, should the Court not grant the requested stay, the parties jointly request that the Court “So Order” the below briefing schedule of Defendant’s pending motion to dismiss.

- Deadline for Plaintiff to file his Opposition to Motion to Dismiss or First Amended Complaint ("FAC"): March 19, 2020;
- Deadline for Defendant to file Reply in Support of Motion to Dismiss or Motion to Dismiss FAC (if FAC is filed): April 20, 2020;
- Deadline for Plaintiff to file Opposition to Motion to Dismiss FAC (if FAC is filed): May 20, 2020;
- Deadline for Defendant to file Reply in Support of Motion to Dismiss FAC (if FAC is filed): June 3, 2020.

We thank the Court for its time and attention to this matter, and for its consideration of this application.

Respectfully submitted,

SEYFARTH SHAW LLP

/s/ John W. Egan

John W. Egan

cc: All counsel of record (via ECF)

The application for a stay is DENIED. That said, the parties' proposed modification to the briefing schedule is ADOPTED, except that if Plaintiff opposes the motion to dismiss, then Defendant shall file its reply no later than March 26, 2020. Further, the parties shall promptly advise the Court by letter of any decisions by other judges relevant to the pending motion. The Clerk of Court is directed to terminate Docket No. 22.



SO ORDERED.

March 4, 2020